

(3) Identified quality deficiencies are corrected within an established time period.

(4) The VA Under Secretary for Health may not require disclosure of the records of such committee unless such disclosure is related to the compliance with requirements of this section.

(q) *Disaster and emergency preparedness.* (1) The facility management must have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.

(2) The facility management must train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out unannounced staff drills using those procedures.

(r) *Transfer agreement.* (1) The facility management must have in effect a written transfer agreement with one or more hospitals that reasonably assures that—

(i) Residents will be transferred from the nursing home to the hospital, and ensured of timely admission to the hospital when transfer is medically appropriate as determined by the primary physician; and

(ii) Medical and other information needed for care and treatment of residents, and, when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the nursing home or the hospital, will be exchanged between the institutions.

(2) The facility is considered to have a transfer agreement in effect if the facility has an agreement with a hospital sufficiently close to the facility to make transfer feasible.

(s) *Compliance with Federal, State, and local laws and professional standards.* The facility management must operate and provide services in compliance with all applicable Federal, State, and local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility. This includes the Single Audit Act of 1984 (Title 31, Section 7501 *et seq.*) and the Cash Management Im-

provement Acts of 1990 and 1992 (Public Laws 101–453 and 102–589, see 31 USC 3335, 3718, 3720A, 6501, 6503)

(t) *Relationship to other Federal regulations.* In addition to compliance with the regulations set forth in this subpart, facilities are obliged to meet the applicable provisions of other Federal laws and regulations, including but not limited to those pertaining to non-discrimination on the basis of race, color, national origin, handicap, or age (38 CFR part 18); protection of human subjects of research (45 CFR part 46), section 504 of the Rehabilitation Act of 1993, Public Law 93–112; Drug-Free Workplace Act of 1988, 38 CFR part 48; section 319 of Public Law 101–121; Title VI of the Civil Rights Act of 1964, 38 CFR 18.1–18.3. Although these regulations are not in themselves considered requirements under this part, their violation may result in the termination or suspension of, or the refusal to grant or continue payment with Federal funds.

(u) *Intermingling.* A building housing a facility recognized as a State home for providing nursing home care may only provide nursing home care in the areas of the building recognized as a State home for providing nursing home care.

(v) *VA Management of State Veterans Homes.* Except as specifically provided by statute or regulations, VA employees have no authority regarding the management or control of State homes providing nursing home care.

(Authority: 38 U.S.C. 101, 501, 1710, 1741–1743, 8135)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0160)

[65 FR 968, Jan. 6, 2000, as amended at 72 FR 30243, May 31, 2007; 74 FR 19434, Apr. 29, 2009]

PART 52—PER DIEM FOR ADULT DAY HEALTH CARE OF VETERANS IN STATE HOMES

Subpart A—General

Sec.

52.1 Purpose.

52.2 Definitions.

Department of Veterans Affairs

§ 52.2

Subpart B—Obtaining Per Diem for Adult Day Health Care in State Homes

- 52.10 Per diem based on recognition and certification.
- 52.20 Application for recognition based on certification.
- 52.30 Recognition and certification.

Subpart C—Per Diem Payments

- 52.40 Monthly payment.
- 52.50 Eligible veterans.

Subpart D—Standards

- 52.60 Standards applicable for payment of per diem.
- 52.61 General requirements for adult day health care program.
- 52.70 Participant rights.
- 52.71 Participant and family caregiver responsibilities.
- 52.80 Enrollment, transfer and discharge rights.
- 52.90 Participant behavior and program practices.
- 52.100 Quality of life.
- 52.110 Participant assessment.
- 52.120 Quality of care.
- 52.130 Nursing services.
- 52.140 Dietary services.
- 52.150 Physician services.
- 52.160 Specialized rehabilitative services.
- 52.170 Dental services.
- 52.180 Administration of drugs.
- 52.190 Infection control.
- 52.200 Physical environment.
- 52.210 Administration.
- 52.220 Transportation.

AUTHORITY: 38 U.S.C. 101, 501, 1741–1743, unless otherwise noted.

SOURCE: 67 FR 662, Jan. 7, 2002, unless otherwise noted.

Subpart A—General

§ 52.1 Purpose.

This part sets forth the mechanism for paying per diem to State homes providing adult day health care to eligible veterans and includes quality assurance requirements that are intended to ensure that veterans receive high quality care in State homes.

§ 52.2 Definitions.

For purposes of this part—

Activities of daily living (ADLs) means the functions or tasks for self-care usually performed in the normal course of a day, *i.e.*, mobility, bathing, dressing,

grooming, toileting, transferring, and eating.

Clinical nurse specialist means a licensed professional nurse with a master's degree in nursing and a major in a clinical nursing specialty from an academic program accredited by the National League for Nursing.

Facility means a building or any part of a building for which a State has submitted an application for recognition as a State home for the provision of adult day health care or a building, or any part of a building, which VA has recognized as a State home for the provision of adult day health care.

Instrumental activities of daily living (IADLs) means functions or tasks of independent living, *i.e.*, shopping, housework, meal preparation and cleanup, laundry, taking medication, money management, transportation, correspondence, and telephone use.

Nurse practitioner means a licensed professional nurse who is currently licensed to practice in the State; who meets the State's requirements governing the qualifications of nurse practitioners; and who is currently certified as an adult, family, or gerontological nurse practitioner by the American Nurses Association.

Physician means a doctor of medicine or osteopathy legally authorized to practice medicine or surgery in the State.

Physician assistant means a person who meets the applicable State requirements for physician assistant, is currently certified by the National Commission on Certification of Physician Assistants (NCCPA) as a physician assistant, and has an individualized written scope of practice that determines the authorization to write medical orders, prescribe medications and to accomplish other clinical tasks under the appropriate supervision by the primary care physician.

Primary physician or Primary care physician means a designated generalist physician responsible for providing, directing and coordinating health care that is indicated for the residents.

State means each of the several States, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.